

Remarks

In the 18 September 2008 Election/Restriction Requirement, the Examiner has offered an opinion that a restriction for the above noted application is proper because it allegedly contains two separate distinct inventions.

The two allegedly distinct inventions are said to include the pending claims as shown below:

Invention 1 - Claims 24 - 32 (Group 1), and

Invention 2 - Claims 33 - 40 (Group 2)

Pending claims 49 – 62 were not mentioned. As part of a response to the 18 September 2008 Election/Restriction Requirement, the Assignee is expected to select a group of claims for further examination. Accordingly the Assignee, while noting that there does not appear to be a statutory basis for the restriction and without commenting on whether or not the allegedly separate inventions are independent and/or distinct elects the invention that was described in group 1 (claims 24 -32).

Statement under 37 CFR 1.111

37 CFR 1.111 requires that the basis for amendments to the claims be pointed out after consideration of the references cited or the objections made. 37 CFR 1.111 states in part that:

In amending in response to a rejection of claims in an application or patent undergoing reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections.

The Assignee notes that this requirement is not relevant to the instant application because there are no references or objections to avoid. Having said that, the Assignee notes that the primary reason the prior claims were amended was to put the application in a form for issue and allowance.

Reservation of rights

The Assignee hereby explicitly reserves the right to present the previously modified and/or canceled claims for re-examination in their original format. The cancellation or modification of pending claims to put the instant application in a final form for allowance and issue is not to be construed as a surrender of subject matters covered by the original claims before their cancellation or modification.

Request for Correction

In accordance with the relevant statutes and precedents the Assignee is entitled to expect and receive: an unbiased patent application examination conducted by an Examiner with knowledge of the relevant arts who follows the law. To date, the activity associated with the instant patent application bears no resemblance to the patent application examination standards dictated by statute and precedent. Prompt correction is requested.

Conclusion

The pending claims are of a form and scope for allowance. Prompt notification thereof is respectfully requested.

Respectfully submitted,
Asset Trust, Inc.

/B.J. Bennett/

B.J. Bennett, President
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